

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CLIFTON JEROME McDANIEL,

1:02-cv-05091-AWI-SMS-P

Plaintiff,

**ORDER ADOPTING FINDINGS AND
RECOMMENDATION** (Doc. 78)

vs.

GEORGE ORTIZ, et al.,

**ORDER GRANTING UNENUMERATED
RULE 12(b) MOTION TO DISMISS**
(Doc. 65)

Defendants.

ORDER DISMISSING ACTION

Plaintiff, Clifton Jerome McDaniel ("plaintiff"), a state prisoner proceeding pro se and in forma pauperis, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72-302.

On January 25, 2006, the Magistrate Judge filed Findings and Recommendation herein which were served on the parties and which contained notice to the parties that any objections to the Findings and Recommendation were to be filed within twenty (20) days. To date, the parties have not filed objections to the Magistrate Judge's Findings and Recommendation.

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In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 73-305, this Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the Court finds the Findings and Recommendation to be supported by the record and by proper analysis.

Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendation, filed January 25, 2006, are ADOPTED IN FULL;

9 2. Defendant's unenumerated Rule 12(b) Motion to Dismiss,
10 filed March 2, 2005, is GRANTED; and,

11 |||| 3. This action is therefore DISMISSED.

13 IT IS SO ORDERED.

Dated: March 3, 2006
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/s/ Anthony W. Ishii
UNITED STATES DISTRICT JUDGE